

c) **Floodplain Management**

Enabling Legislation

5 MRSA § 3305 (A): Directs SPO to coordinate the preparation of policies to guide and carry forward the wise and coordinated development of the State's economy and its energy resources and the conservation of the State's natural resources.

5 MRSA § 3305 (D): Directs SPO to oversee delivery of technical assistance and resources to municipalities for the purpose of flood plain management activities and enhancing and expanding parks, open spaces and recreational opportunities as a part of comprehensive community development.

38 MRSA § 440: Provides for municipalities to enact zoning and subdivision controls, consistent with comprehensive plans, to avoid problems associated with floodplain development.

37-B MRSA § 1112: Directs the Department of Defense, Veterans and Emergency Management to coordinate with SPO on administering the State's dam safety laws.

Code of Federal Regulations, Title 44, Volume 1, Parts 0 to End, Revised October 1, 1999: Emergency Management and Assistance: Lays out duties and responsibilities of State National Flood Insurance Program Coordinating Agencies that include, among others, assisting communities in qualifying for participation in the Program; assisting public agencies with developing, implementing, and maintaining local floodplain management regulations; providing public information; recommending priorities for Federal floodplain management activities; and assuring coordination and consistency of flood plain management activities among agencies.

Positions that Contribute to this Responsibility

- (1) Senior Planner
- (1) Planner II (PT)
- (1) Planning & Research Associate
- Shared Clerical and Administrative Support

Description

With 4,568 miles of coastline in Maine and 2,772 square miles of floodplain, flooding in Maine is inevitable. This flooding, largely the result of coastal storms, heavy spring rains, runoff, and ice jams, has been responsible for millions of dollars of property damage. There are approximately 33,000 structures at risk of flooding in Maine. Yet, no private flood insurance is available to insure property against loss from floods; private insurers have found the risk too high.

Communities can assist its citizens in protecting their property from flood losses by joining the National Flood Insurance Program (NFIP). The NFIP is a voluntary federal program that offers homeowners the opportunity to purchase federal flood insurance in

communities that meet the necessary standards for participation.

While not mandatory, all states have a state NFIP Coordinating Agency. Maine's State Coordinating Agency is housed at SPO where it supports SPO's role in providing planning assistance to communities. As the State Coordinating Agency, SPO assists towns with meeting the standards to join the federal insurance program.

The NFIP is designed as a *quid pro quo* program. The Federal Government underwrites flood insurance in those communities that agree to regulate development in their floodplains. They must adopt and enforce regulations that meet minimum federal standards. SPO assists participating towns as well as those interested in joining the NFIP with developing and administering the necessary local floodplain management programs so that they comply with NFIP. The staff also provides information on the NFIP to homeowners, businesses, lenders, realtors and others.

SPO staff reviews local ordinances for compliance with the NFIP standards. NFIP, working with the State, develops a model ordinance for towns to enact as a requirement of participation. The model ordinance is periodically updated and towns are encouraged to adopt revisions so that local standards are consistent with national standards. There is another good reason for towns to comply with NFIP standards: communities that do not update their ordinances run the risk of being suspended and thus losing federal disaster assistance in the event of a Presidential disaster declaration.

Assistance is also provided to those communities in the NFIP that seek to lower their flood insurance premiums through the NFIP's Community Rating System (CRS). The Community Rating System is a means of recognizing those communities that exceed minimum standards. The community earns points for different activities designed to reduce flood risk. For each 500 points earned, the flood insurance premiums in the town are reduced by 5%. 17 Maine communities participate in the CRS, more than any other New England state. And Maine homeowners save money from lower premium costs.

In addition to serving as the State NFIP Coordinating agency, SPO administers the Maine Floodplain Management Program. Under this dual role, it performs a number of technical assistance functions, including:

- offering workshops on how to read and use flood maps,
- assistance with ordinance interpretation,
- assistance with local planning to mitigate flooding hazards,
- training for local code enforcement officers on floodplain standards for building construction, and
- reviewing permit applications and grant proposals for compliance with state and federal floodplain standards, on behalf of other state agencies.

Federal Executive Order 11988 requires federally-funded projects to avoid floodplains if practical. Maine has a similar standard contained in a 1968 Executive Order issued by Governor Curtis. SPO reviews projects to determine whether they are reasonably safe from flooding and what impact the proposed development may have on surrounding natural resources. Reviews cover state projects as well as state-funded projects in flood

areas such as sidewalks, parks, or building rehabilitation that are part of Community Development Block Grant projects; development that needs approval from the Department of Environmental Protection or the Land Use Regulatory Commission; snowmobile trails constructed by the Department of Conservation; bridge or road work conducted or funded by the Department of Transportation; and improvements made by the Army Corps of Engineers.

The primary purpose of Maine's floodplain management program is to reduce and prevent flood losses to lives and property by assisting communities with developing local floodplain management programs.

Progress towards Goals and Objectives

To achieve its goal of stimulating the development of the State's economy and the conservation of its natural resources, SPO's strives to ensure that municipalities have the appropriate building standards in place to reduce losses from flooding. SPO measures its performance by tracking the number of municipalities with up-to-date ordinances.

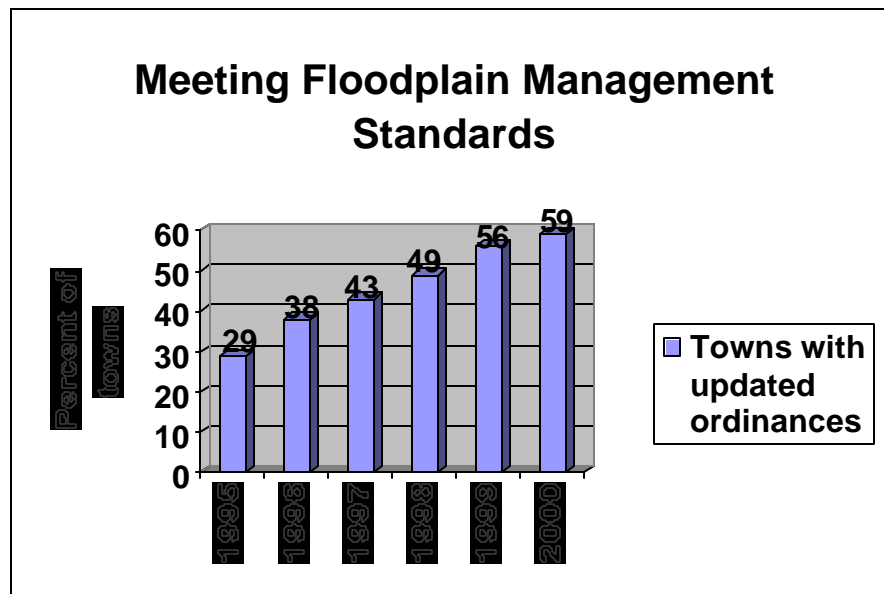


Figure 6: SPO's target is to have all requisite towns update their ordinances

Assessment of Progress

SPO continues to work with towns one-on-one to update their floodplain ordinances. During FFY 2000, staff assisted 59 communities with upgrading their ordinances. Of those, 27 adopted the necessary revisions to become compliant. This year, SPO amended its contract with Regional Councils so that each council targets two communities for assistance with updating their floodplain management ordinances.

Performance Outputs for 2000

- 93% of Maine's communities participate in the NFIP (7,000 flood insurance policies are in effect in Maine with coverage totaling \$833 million)
- Maine homeowners saved \$55,000 in insurance premiums in 17 communities participating in the Community Rating Service
- 427 communities assisted
- 2,645 technical assistance contacts (including assistance to 10 communities regarding joining NFIP, new ordinance assistance to 50 communities, 27 ordinance reviews, remapping assistance to 19 communities)
- 18 Community Assistance Visits conducted
- 275 participants in floodplain workshops; 84% of workshop participants rated floodplain workshops as overall *Very Good* or *Excellent*
- 49 Interagency Reviews conducted
- Municipal Floodplain Management Handbook updated and put on-line
- Five floodplain management model ordinances updated

Other Evaluative Processes

- *FEMA Oversight*: SPO reports a detailed tally of activities to the Federal Emergency Management Agency annually and quarterly. In 2000, the FEMA assessed Maine's effectiveness in reducing flood loss. They found that, "The programs of the Department of Economic and Community Development, Maine Emergency Management Agency, DEP and the State Planning Office are outstanding...which reflect the State's desire to protect their natural resources. We have found no problems with the enforcement of the NFIP requirements or the administration of [federal] procedures. FEMA and the state observers actually learned much more from the visit than what they were able to pass on [Maine's] state agencies."

Summary of Rule-making Activity

SPO has no rule-making authority for the floodplain management program.

Comparison of Federal and State Laws

The minimum NFIP requirements for new or substantially improved structures require that the lowest floor be at or above the 100-year flood elevation. On the other hand, Maine's standard requires the lowest floor be 1-foot above the 100-year flood level. SPO adopted this standard because:

- as a watershed is developed over time there are increased runoff and higher flood flows;
- higher elevation standards provides protection for greater than 100 year flood events;
- there is a reduction in flood insurance premiums for higher elevations, and
- there is continuing evidence of sea level rise.

Constituencies Served

- Government Officials
- Lenders
- Insurance Agents
- Realtors and Appraisers
- Professional Land Surveyors
- Consultants, Professional Engineers, Attorneys, Site Evaluators
- General Public

Efforts to Coordinate with Others

SPO's largest partnering effort is with the communities that participate in the National Flood Insurance Program. Through their efforts, Maine reduces life and property loss and protects sensitive natural resources areas.

Examples of other successful collaborative efforts include:

- *Evaluating Flood Risk of New Development:* SPO coordinates with a number of agencies to ensure proposed development by the State or funded by the State meets state and federal flood standards. These include DECD's community and business development projects, DEP's Sand Dune Regulations and Shoreland Zoning, and projects funded by the departments of Conservation/Land Use Regulation Commission, Inland Fisheries and Wildlife, and Maine Emergency Management Agency or undertaken by the Army Corps of Engineers.
- *Training:* SPO conducts workshops for several professional groups including the Maine Professional Land Surveyors (PLS) Association as well as the lending and insurance industries. This has led to a better understanding of floodplain management and better compliance with National Flood Insurance Program regulations. In turn, these groups help with community education in their day-to-day work with community and homeowner clients.

Alternate Delivery Systems

The State Planning Office uses a variety of delivery systems to streamline processes, leverage funds, save time and money, and reach more people. Alternatives to traditional delivery systems include: contracting with others to provide services, fee-for-service, using volunteers, interns and research fellows, partnering with other organizations, sharing resources, and using electronic mechanisms.

Examples of successful alternative delivery systems in floodplain management include:

- *Internet Technology:* SPO now provides much of its floodplain management information via the web, including elevation data for flood zones, model ordinances, and other technical assistance materials.

- *Contracting for Services:* SPO uses Maine's 10 Regional Planning agencies to provide floodplain management assistance to communities.

Emerging Policy Issues

The following floodplain management issues are likely to command SPO's time and attention in the coming 1-3 years:

- *Downtown Redevelopment:* Maine is striving to breathe life back into its traditional downtowns, many of which are located on rivers and waterways. Communities are looking at these waterways as business and tourist attractions. What's more, there still exist industrial plants and retail businesses along these rivers, which are the lifeblood of some small towns. Yet these same riverbanks are often rife for flooding.

Federal and state floodplain standards are designed to protect these natural resources areas. At the same time, state land use planning policies, including Maine's landmark Smart Growth initiative, seek to encourage development in urban and downtown areas (many of which are in the flood zone) where policies and systems are in place to manage environmental impacts. Regulators, developers and policymakers must strike a balance between Maine's environmental protection laws, such as floodplain management, and the desire to revitalize communities.

***SPO's Role:** The floodplain management staff works with its land use planning colleagues within SPO to identify methods for accomplishing common natural resources protection goals.*

- *FEMA's Changing Emphasis:* The role of emergency management is changing from one of cleaning up after a disaster to preventing losses (also known as mitigation). This means moving property out of the way of floods. If a structure is subject to repetitive losses, FEMA's current approach is to acquire and relocate it. Pre-mitigation planning at the local level is stressed where communities, as part of their comprehensive planning, inventory structures in the floodplain and identify strategies for preventing losses. Programs such as NFIP's Project Impact focus on engaging the private sector to help towns mitigate flood losses (banks, for example, provide low-interest loans). What's more, there is a growing and, tragically, now paramount need to deal with man-made tragedies such as terrorism. Federal funding is being shifted to these other priorities to the detriment of Maine's traditional land use planning and natural resources protection efforts.

***SPO's Role:** As resources allow, SPO assists communities with mitigation and pre-mitigation planning.*

Emerging Programmatic Issues

- *Alternative Funding for Floodplain Management:* The Federal Emergency Management Agency (FEMA) funds three-quarters of SPO's floodplain management responsibilities. SPO funds the balance with General Fund dollars. While federal dollars have remained flat, the demand for floodplain management assistance continues to rise each year. SPO has worked to hold constant its operational costs for floodplain management, but salary and benefits for its fixed 2.6 staff are rising. Flat funding of federal FEMA dollars is tantamount to a budget cut. SPO faces cutting services and staff.

Background: Over the past 10 years, the number of calls for floodplain technical assistance has increased by 85%. In 1999 alone, there was a 23% increase in requests for technical assistance. These requests come from banks, surveyors, towns, and code officers, and the public. SPO's flood management staff (2.6 FTEs) continues to absorb additional responsibilities –for flood mitigation planning, for example, and for reviewing town comprehensive plans and assisting other state agencies in assessing the impact that development proposals would have on floodplains. The Legislature has provided SPO with no new staff to accommodate this growth in program responsibilities. And while the National Flood Insurance Policy count has grown close to 20% in the past few years, federal funding to states has not increased since 1997. [FEMA funds state floodplain programs with flood insurance policy fees, not from federal tax revenue.]